

REMARKS

This application is in condition for allowance at the time of the next Official Action.

**Status of the Claims**

Claim 26 is new, and requires the "optional" features of claim 8. Support for the new claim may be found, for example, in the Examples.

Claim 14 is amended as to form.

Claims 9 and 11-25 remain in this application.

**Claim Rejections-35 USC §103**

Claims 9 and 11-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over WINSTON et al. WO 02/100329 ("WINSTON") in view of SCHLACHTER et al. US 6,471,969 ("SCHLACHTER"). This rejection is respectfully traversed for the reasons below.

The claims are directed to a method for treating conditions of the skin, hair, nails and/or overweight conditions by orally administering a combination product.

This combination product comprises a first composition (a) containing a green tea extract, vitamin C, and optionally (claim 9) at least (new claim 26) one metallic compound selected from zinc, chromium and a mixture thereof, and a second composition (b) containing at least one metallic compound

selected from iron, copper, chromium and a mixture thereof. These compositions are separately and consecutively orally administered, and zinc and iron are not simultaneously present in the same composition.

**WINSTON**

WINSTON discloses a dietary nutritional supplement for helping the body resist the effects of aging process. This nutritional supplement may be provided in a two-part delivery format:

- a first part containing water-soluble ingredients:
  - at least one first component chosen from Vitamin C, Schisandra Berry, Raspberry, Strawberry, Pomegranate, and Elderberry,
  - at least one second component chosen from Bilberry and Blueberry,
  - and at least one third component chosen from Green Tea and Dark Chocolate;
- a second part containing lipid-soluble ingredients:
  - at least one first component chosen from mixed Carotenoids, Echinacea and Goldenseal,
  - at least one second component chosen from mixed tocopherols, tocotrienols, Zinc and Selenium,
  - and at least a third component, Coenzyme Q-10.

The second part of the nutritional supplement disclosed in WINSTON comprises neither iron, nor copper, nor chromium.

The Official Action noted, as explained p.14 l.9-11 of WINSTON, that the mixed tocopherols may be replaced by zinc and/or selenium. However, WINSTON further teaches that water-soluble ingredients can be alternatives for lipid-soluble ingredients and vice versa (p.14 l. 24-31). Consequently, if the tocopherol of the lipid soluble ingredients is replaced by a water-soluble zinc salt, this replacement salt would be added to the water-soluble ingredients.

While WINSTON does specify that the two parts may be ingested in any combination, and at any time during the day, WINSTON prefers that the two parts are simultaneously ingested. See, e.g., page 4, lines 29-32, page 5, lines 1-12 and page 11, lines 20-31.

The Official Action acknowledges that WINSTON fails to disclose or suggest at least one metallic compound in the second part, which is selected from iron, copper, chromium and a mixture thereof.

**SCHLACHTER**

SCHLACHTER was offered for teaching that trace metals are essential regulators in metabolism.

SCHLACHTER discloses a kit containing a two-phase food supplement, which is intended to cover the needs of nutrients of the body. This kit comprises a product A comprising

- at least one representative of the group of the unsaturated fatty acids and/or
- at least one representative of the group of trace elements and minerals and/or
- at least one representative of the group of vitamins and/or
- at least one representative of the group of bioactive plant substances and/or
- at least one representative of the group of amino acid derivative,

and a product B comprising:

- at least one representative of the group of the unsaturated fatty acids and/or
- at least one representative of the group of trace elements and minerals and/or
- at least one representative of the group of vitamins and/or
- at least one representative of the group of bioactive plant substances and/or
- at least one representative of the group of amino acid derivative,

with the proviso that product A and product B differs from each other in their quantitative and /or material composition.

Product A and product B may thus contain a great number of compounds. However, the very specific selection and combination of Vitamin C, Green Tea and a metallic compound (iron, copper and/or chromium) according to the invention is not disclosed.

On the contrary, the examples of SCHLACHTER only disclose kits in which the product A does not contain Green Tea, and the product B contains neither iron, nor copper, nor chromium. The only example containing Vitamin C and Green Tea is the example 2, in which Vitamin C and Green Tea are formulated

apart: product A comprises particularly Vitamin C and Chromium, and product B comprises particularly Green Tea Extract and zinc.

Moreover, SCHLACHTER does not disclose a method for specifically treating conditions of the skin, hair, nails and/or overweight of a human in need thereof.

Thus, SCHLACHTER alone fails to disclose or suggest the claimed invention.

**The Combination of WINSTON and SCHLACHTER**

The proposed combination does not render obvious the claimed invention for at least the following two reasons:

**a) The skilled person would have not been encouraged to combine WINSTON and SCHLACHTER.**

Claimed invention is directed to a new effective method for treating conditions of the skin, hair, nails and /or overweight.

WINSTON sets out to help the body resist the effects of aging.

SCHLACHTER, however, is a highly general teaching with no real focus. At best, SCHLACHTER discloses a food supplement (dietary supplement) or a drug (see col.1 l.22-23), without any other specific purpose. Indeed, SCHLACHTER defines that a food complementary nutrient substitution has to contribute to a

sufficient supply of nutrients, an optimal protection of the health and well-being (see col.1 1.56-59).

Therefore, one of ordinary skill in the art would have had not reason to look to SCHLACHTER to solve the problem of WINSTON, e.g., to help the body resist the effects of the aging process.

**b) The combination of WINSTON and  
SCHLACHTER does not teach the invention.**

In order to even approach the claimed invention, one would have had to add iron, copper or chromium to the fat-soluble ingredients of WINSTON.

The teaching of SCHLACHTER, as previously discussed, is very general, and the composition disclosed in SCHLACHTER may comprise a great diversity of ingredients. Minerals and trace elements are not specifically emphasized, when compared with vitamins, polyunsaturated fatty acids and bioactive plant substances. The assertion that "minerals and trace elements are essential regulators in the metabolism" (see col.2 1.13-14) is a common knowledge. There is no specific teaching of the importance of minerals for treating aesthetic conditions.

Among the minerals and trace elements which are essential regulators in metabolism, there is no specific teaching of iron, copper or chromium (see col. 2 1.13-26).

At best, chromium is discussed as part of a two phase preparation. However, chromium, as well as the major trace elements discussed in SCHLACHTER, are in the form water-soluble salts. See, e.g., the Examples which include chromium yeast and zinc yeast and col. 5 l. 50-66.

Thus, as illustrated by the table below, the combination fails to teach the claimed invention.

	CLAIMED INVENTION	WINSTON COMPRISES	COMBINATION OF WINSTON AND SCHLACHTER
<b>1<sup>st</sup> composition</b>	<ul style="list-style-type: none"><li>• Green tea extract</li><li>• Vitamin C</li><li>• Optionally (claim 9) or at least one (claim 26):     zinc     chromium</li></ul>	<i>Water-soluble phase:</i> <ul style="list-style-type: none"><li>• Green tea extract</li><li>• Vitamin C</li></ul>	<i>Water-soluble phase:</i> <ul style="list-style-type: none"><li>• Green tea extract</li><li>• Vitamin C</li><li>• Chromium yeast</li><li>• Zinc yeast</li></ul>
<b>2<sup>nd</sup> composition</b>	<ul style="list-style-type: none"><li>• at least one of:     iron     copper     chromium</li></ul>	<i>Fat-soluble phase:</i> <ul style="list-style-type: none"><li>• at least one of:     tocopherols     tocotrienols     zinc     selenium</li></ul>	<i>Fat-soluble phase:</i> <ul style="list-style-type: none"><li>• at least one of:     tocopherols     tocotrienols     zinc     selenium</li></ul>

Therefore, claims 9 and 11-25, as well as new claim 26, are not rendered obvious, and withdrawal of the rejection is respectfully requested.

### Conclusion

In view of the amendment to the claims and the foregoing remarks, this application is in condition for allowance

at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our credit card which is being paid online simultaneously herewith for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/Robert A. Madsen/  
Robert A. Madsen, Reg. No. 58,543  
209 Madison Street, Suite 500  
Alexandria, VA 22314  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

RAM/fb